

IN THE CIRCUIT COURT OF COFFEE COUNTY, TENNESSEE
AT MANCHESTER

GERALD LANGFORD,

Plaintiff,

Vs.

**JAMES FENNELL and LMR
TRUCKING, INC.,**

Defendants.

Case No.: **2019-CV-45942**

Jury Demand

FILED

MAY 16 2019

COMPLAINT

CLERK OF COURT
COFFEE COUNTY, TN
HEATHER LINDS GUNDEL, CLERK
TIME

1. The plaintiff is a resident citizen of Coffee County, Tennessee, and resides at 3915 Prairie Plains Road, Hillsboro, Tennessee, 37342.
2. The defendant, James Fennell, is a resident citizen of South Carolina and resides at 2060 Davidson Tower Road, Early Branch, South Carolina, 29916.
3. The defendant, LMR Trucking, Inc., is a foreign corporation doing business in South Carolina and believed to have offices located at 4395 Amsterdam Street, North Charleston, South Carolina, 29418.
4. This cause of action arises out of injuries the plaintiff sustained in an automobile collision that occurred on Interstate 24 in Coffee County, Manchester, Tennessee, on or about May 18, 2018.
4. This court has jurisdiction over this action and the defendants hereto pursuant to Tenn. Code Ann. §20-2-223.



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5. The defendants may be served through the Secretary of State pursuant to *Tenn. Code Ann.* §20-2-203 and §20-2-205.

6. On or about May 18, 2018, the plaintiff avers that he was operating his vehicle on Exit 114 off of Interstate 24 in Coffee County, Tennessee. The plaintiff was stopped and waiting on traffic ahead of him when he was struck from the rear by a 2017 Peterbilt truck tractor, VIN 1NPXLP9X2HD349527, operated by the defendant, James Fennell. The vehicle in question was owned by and titled in the name of LMR Trucking, Inc. The impact of the collision with the defendant's vehicle caused the plaintiff to suffer serious and permanent injuries.

7. The plaintiff avers that the collision and his resulting injuries were the direct and proximate result of the negligent actions of the defendant, James Fennell. The plaintiff specifically avers that the defendant was negligent in the operation of her vehicle for the following reasons: 1) the defendant failed to maintain proper vigilance for other vehicles operating on the highway; 2) the defendant was operating at a high rate of speed that was unsafe for the prevailing conditions; 3) the defendant failed to yield to other drivers operating on the roadway with the right-of-way; 4) the defendant had allowed himself to become distracted and was not paying proper attention to the traffic on the highway; and 5) the defendant failed to maintain proper control of her vehicle.

8. The plaintiff further avers that the defendant, James Fennell, violated numerous rules of the road at the time he collided with the plaintiff's vehicle. The plaintiff avers that the defendant's violation of these rules of the road constitutes negligence *per se* and that the defendant's negligence *per se* was the direct and proximate cause of the collision and the

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plaintiff's resulting injuries as alleged herein. The plaintiff specifically avers that the defendant violated the following rules of the road:

- a. *Tenn. Code Ann. § 55-8-124*, Following too closely;
- b. *Tenn. Code Ann. § 55-8-136(b)*, Driver's to exercise due care;
- c. *Tenn. Code Ann. § 55-8-152*, Speed limits;
- d. *Tenn. Code Ann. § 55-8-197*, Failure to yield right-of-way; and
- e. *Tenn. Code Ann. § 55-10-205*, Reckless driving.

9, The plaintiff avers that at all times relevant the defendant, James Pennell, was in the employment of LMR, Trucking, Inc., and was operating said truck tractor with the knowledge and consent of his employer and for the benefit of his employer. The plaintiff avers that the defendant, LMR Trucking, Inc., is vicariously liable for all injuries and damages sustained by the plaintiff due to the negligence of its employee, James Pennell, under the common law doctrine of *Respondeat superior*.

10, The plaintiff further avers that the vehicle in question was registered to and owned by the defendant, LMR Trucking, Inc. The plaintiff relies upon the presumptions set forth in *Tenn. Code Ann. § 55-10-311* and *Tenn. Code Ann. § 55-10-2-312* to establish that the defendant, James Pennell, was operating said vehicle with the consent and knowledge of the defendant, LMR Trucking, Inc.; that the defendant was operating said vehicle for the use and benefit of the defendant's employer, LMR, Trucking, Inc.; and that the defendant, James Pennell, was operating the truck tractor in the course and scope of his employment with the defendant, LMR, Trucking, Inc. The plaintiff avers that the defendant, LMR Trucking, Inc., is vicariously liable for all injuries and damages the plaintiff sustained due to the negligent


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actions of the defendant, James Fennell, pursuant to the presumptions set forth in *Tenn. Code Ann. §55-10-311* and *Tenn. Code Ann. §55-10-2-312*.

11. The plaintiff avers that the impact of the collision as alleged herein caused the plaintiff to suffer serious and permanent injury to his low back, neck, shoulders, head, and body as a whole. The plaintiff avers that he has incurred extensive medical expenses for the care and treatment of his injuries. The plaintiff avers that the permanent nature of his injuries will likely cause the plaintiff to incur medical expenses for the care and treatment of his injuries in the future. The plaintiff avers that he has suffered permanent impairment and disfigurement. The plaintiff avers that he has suffered excruciating physical pain and mental anguish which will likely plague the plaintiff for the remainder of his life. The plaintiff avers that the debilitating nature of the plaintiff's injuries have impaired the plaintiff's ability to enjoy life. The plaintiff alleges that he is entitled to compensation for all injuries and damages he has sustained due to the negligent actions of the defendant as alleged herein.

WHEREFORE, plaintiff prays for a judgment against the defendants, jointly and severally, in the amount of Ninety Five Thousand Dollars (\$95,000.00). The plaintiff prays for a jury of twelve (12) to try the issues joined in this cause. The plaintiff asks for such other general relief, including the award of discretionary costs, for which he may be entitled to at law.

Respectfully submitted,
SWAFFORD, PETERS, PRIEST & HALL

by: 
Timothy S. Priest, BPR# 013922
Attorney for Gerald Langford
120 North Jefferson Street
Winchester, TN 37398

5/22/2019 7:29:14 AM

We go as surety for all amounts required
by law or included in the Clerk's Bill of
Costs, not to include discretionary costs.

SWAFFORD, PETERS, PRIEST & HALL

BY: 
Timothy S. Priest
Attorney for Plaintiff

5/22/2019 7:29:14 AM

CIRCUIT COURT SUMMONS

WINCHESTER, TENNESSEE

**STATE OF TENNESSEE
COUNTY OF COFFEE
14th Judicial District**

2019-CV-48942

File No.:

GERALD LANGFORD

Plaintiff(s)

FILED

Vs.

JAMES FENNELL and LMR Trucking, Inc.,

MAY 16 2019

Defendant(s)

To the above named Defendant(s): **LMR Trucking, Inc., 4395 Amsterdam Street, North Charleston, South Carolina, 29418 (SERVE THROUGH SECRETARY OF STATE)**

You are summoned to appear and defend a civil action filed against you in the Circuit Court, Coffee County, Tennessee, and your defense must be made within thirty (30) days from the date this summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the plaintiff or plaintiff's attorney at the address listed below.

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in the complaint.

ISSUED: **S - IV**, 2019.

Circuit Court Clerk
P.O. Box 629
Manchester, TN 37349

HEATHER HINDS DUNCAN

BY: 
BY:

Deputy Clerk

Attorney for Plaintiff(s): **Timothy S. Priest**

Address: **120 North Jefferson Street, Winchester, TN 37398**

To the DEFENDANT(S)

Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary, however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel for yourself and your family, and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand this exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

[T.C.A. §26-2-114]

TO THE SHERIFF: Please execute this summons and make your return hereon as provided by law.

Received this summons for this service this _____ day of _____, 2019.

BY: **Heather Hinds Duncan, CLERK**

BY:

Officer

I hereby certify and return, that on the _____ day of _____, 2019, I served this summons, together with the complaint herein as follows:

Officer/Agent

5/22/2019 7:29:10 AM

CIRCUIT COURT SUMMONS

WINCHESTER, TENNESSEE

**STATE OF TENNESSEE
COUNTY OF COFFEE
14th Judicial District**

2019-cv-45948
File No.: _____

GERALD LANGFORD

FILED

Plaintiff(s)

MAY 16 2019

**Vs.
JAMES FENNELL and LMR Trucking, Inc.,**

CIRCUIT COURT
HEATHER HINDS DUNCAN, CLERK
TIME: 10:00 AM

Defendant(s)

To the above named Defendant(s): **James Fennell, 2060 Davidson Tower Road, Early Branch, South Carolina 29916 (SERVE THROUGH SECRETARY OF STATE)**

You are summoned to appear and defend a civil action filed against you in the Circuit Court, Coffee County, Tennessee, and your defense must be made within thirty (30) days from the date this summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the plaintiff or plaintiff's attorney at the address listed below.

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ISSUED: **S-IV**, 2019.

Circuit Court Clerk
P.O. Box 629
Manchester, TN 37349

HEATHER HINDS DUNCAN

BY: 
BY: _____
Deputy Clerk

Attorney for Plaintiff(s): **Timothy S. Priest**
Address: **120 North Jefferson Street, Winchester, TN 37398**

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[T.C.A. §26-2-114]

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BY: **Heather Hinds Duncan, CLERK**

BY: _____
Officer

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Officer/Agent

5/22/2019 7:29:11 AM